

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHAEL J. MONAHAN,)
vs.)
Plaintiff,)
COMMISSIONER OF SOCIAL)
ADMINISTRATION)
Defendant.)
)
) NO. CIV-18-460-SM
)

ORDER

Plaintiff Michael J. Monahan filed this action and an application seeking leave to proceed without prepaying fees or costs. Consistent with General Order 16-4, the matter was assigned to Magistrate Judge Suzanne Mitchell, who has recommended that plaintiff's application be denied. In her Report and Recommendation ("Report"), the magistrate judge concluded that while she believed plaintiff has limited income, he appears to have sufficient discretionary income to pay the \$400 filing fee. She noted that plaintiff's monthly expenses were approximately \$600 less than his monthly income.

Plaintiff has objected to the Report. He asserts that his monthly income varies, at least with respect to his self-employment income. He also asserts that he owes a significant amount in medical bills, in excess of \$50,000, which reduces his discretionary income.

Having considered *de novo* plaintiff's application, the court concludes that while plaintiff does not have the ability to pay the entire filing fee immediately, he has sufficient income and resources to pay an initial partial filing fee and monthly payments thereafter

until the filing fee is paid in full. *See* 28 U.S.C. § 1915(a)(1).

Accordingly, it is hereby **ORDERED** that on or before July 1, 2018, plaintiff shall pay an initial partial filing fee of \$75.00. Plaintiff is advised that if he has not, by July 1, 2018, either (1) paid the initial partial filing fee, or (2) shown in writing good cause for the failure to pay, this action will be subject to dismissal without prejudice to refiling and no fees or costs will be imposed or collected. *See* LCvR 3.4(a). It is further ordered that, after payment of the initial partial filing fee, plaintiff shall make monthly payments of \$75.00 until he has paid the total filing fee of \$400.00.

IT IS FURTHER ORDERED that the Clerk of the Court shall not issue process until plaintiff has paid the initial partial filing fee. *See* LCvR3.4(b). In accordance with Local Civil Rule 3.3(e), the formal filing of the pleadings will relate back to the date the pleadings were conditionally filed.

IT IS SO ORDERED

Dated this 6th day of June, 2018.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE